

SENATE No. 698

The Commonwealth of Massachusetts

PRESENTED BY:

Thomas M. McGee

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to modernizing and protecting the unemployment insurance system.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Thomas M. McGee	Third Essex and Middlesex
Anthony D. Galluccio	Middlesex, Suffolk and Essex
Patricia D. Jehlen	Second Middlesex
Susan C. Tucker	Second Essex and Middlesex
Bill Bowles	2nd Bristol
James B. Eldridge	Middlesex and Worcester
Jennifer L. Flanagan	Worcester and Middlesex
Cleon H. Turner	1st Barnstable
Kay Khan	11th Middlesex
Brian P. Wallace	4th Suffolk
Joyce A. Spilotis	12th Essex
Geraldo Alicea	6th Worcester
Denise Provost	27th Middlesex
Michael Brady	9th Plymouth
Steven A. Tolman	Second Suffolk and Middlesex
Gale D. Candaras	First Hampden and Hampshire

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO MODERNIZING AND PROTECTING THE UNEMPLOYMENT INSURANCE SYSTEM.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1(w) of chapter 151A of the General Laws, as appearing in the 2006
2 Official Edition, is hereby amended by inserting after the word “quarter” in the first sentence, the
3 following words:-- ; provided further, that if the individual has worked for 15 or more weeks and such
4 deeming renders the individual ineligible for unemployment benefits, the amount shall be equal to one
5 twenty-sixth of the total wages.

6 SECTION 2. Section 14(a) of said chapter 151A, as so appearing, is hereby amended by striking
7 out paragraph (4) and inserting in place thereof the following paragraph:- “Unemployment insurance
8 taxable wage base”, with respect to calendar years beginning on or after January 1, 2011, the term
9 “unemployment insurance taxable wage base” shall mean not less than \$20,000 and shall be adjusted
10 annually to reflect increases in the state average weekly wage as determined in section 29(a).

11 SECTION 3. Section 25(e) of said chapter 151A, as so appearing, is hereby amended by striking
12 out, in lines 112-114, the words, “and in each of said weeks has earned an amount equivalent to or in
13 excess of the individuals’ weekly benefit amount after the individual has left work,” and replacing it with
14 the following words:-- and has earned an amount equivalent to or in excess of eight times the individual’s
15 weekly benefit amount after the individual has left work.

16 SECTION 4. Said section 25(e) of said chapter 151A, as so appearing, is hereby further amended
17 by inserting in the third paragraph after the word “involuntary”, in line 142, the following words:-
18 Leaving employment due to the illness or disability of a member of the individual’s immediate family
19 shall be deemed to be an involuntary separation.

20 SECTION 5. Said section 25(e) of said chapter 151A, as so appearing, is hereby further amended
21 by striking out the eighth and ninth paragraphs.

22 SECTION 6. Said section 25(e) of said chapter 151A, as so appearing, is hereby further amended
23 by striking the last paragraph.

24 SECTION 7. Section 29(b) of said chapter 151A, as so appearing, is hereby amended by adding
25 at the end thereof the following sentence:-- Nothing herein shall permit a reduction of benefits solely
26 because an individual leaves a subsidiary part-time job during his or her base period.

27 SECTION 8. Section 30(c) of said chapter 151A, as so appearing, is hereby amended by striking
28 out the first paragraph and inserting in place thereof the following paragraph:-

29 If in the opinion of the commissioner, it is necessary for an unemployed individual to obtain further
30 industrial, vocational, adult basic education, general equivalency diploma or English for speakers of a
31 second language training to realize sustainable employment, the total benefits which that individual may
32 receive shall be extended by up to 26 times the individual’s benefit rate, if the individual is attending a
33 retraining course approved by the commissioner, and if the training program shall be completed within 2
34 years or within 3 years if the program includes a combination of adult basic education, general
35 equivalency diploma or English for speakers of other languages with vocational or industrial training;
36 provided that no English for speakers of other languages program shall be denied approval under this
37 section solely because it is not combined with another program. These additional benefits shall be paid to
38 the individual only when attending the course and only if the individual has exhausted all rights to regular
39 and extended benefits under this chapter and has no rights to benefits or compensation under this chapter

or under any other state unemployment compensation law or under any federal law. This extension shall be available only to individuals who have applied to the commissioner for training no later than the fifteenth week of a new or continued claim, but the commissioner shall specify by regulation the circumstances in which the 15-week application period shall be tolled, including, but not limited to, where staff of the division of unemployment assistance, or its agents, have given the applicant misinformation that causes the applicant to miss the 15-week deadline; the applicant is working with, or has attempted to initiate a working relationship with, a one-stop career center for the purpose of securing a spot in a training program, but has not yet been able to enroll in an appropriate program; the applicant needs to address the physical, psychological and legal effects of domestic violence; and other good cause to be determined by the commissioner. The claimant shall begin training in the first available appropriate program for which funding is available and which is a reasonable distance from the claimant's residence, as determined by the commissioner, but the commissioner, in his discretion, may extend the period once for not more than two weeks for any applicant whose initial application is denied. Any benefits paid to an individual under this paragraph which would not be chargeable to the account of any particular employer under section 14 shall be charged to the solvency account. An individual eligible to receive a trade readjustment allowance under Chapter 2 of Title II of the Trade Act of 1974, 19 USC 2251-2322, as amended, shall not be eligible to receive additional benefits under this section for any week in which the individual receives this trade readjustment allowance. An individual eligible to receive emergency unemployment compensation, under any federal law, shall not be eligible to receive additional benefits under this section for any week in which the individual receives that compensation.

SECTION 9. Section 47 of said chapter 151A, as so appearing, is hereby amended by inserting after the fourth paragraph the following paragraph:- The receipt of any notice of termination of employment or of any substantial alteration in the terms of employment within six months after an employee has provided evidence in connection with a claim for benefits under this chapter, or has testified at any hearing conducted under any provision of this chapter, shall create a rebuttable

65 presumption that such notice or other action is a reprisal against the employee for providing evidence.
66 Such presumption shall be rebutted only by clear and convincing evidence that such employer's action
67 was not a reprisal against the employee and that the employer had sufficient independent justification for
68 taking such action, and would have in fact taken such action, in the same manner and at the same time the
69 action was taken, regardless of the employee's providing evidence in connection with a claim for benefit
70 under this chapter. An employing unit found to have threatened, coerced or taken reprisal against any
71 employee pursuant to this paragraph shall rescind any adverse alteration in the terms of employment for
72 such employee and shall offer reinstatement to any terminated employee and shall also be liable for
73 damages and costs of the suit, including a reasonable attorney's fee.

74 SECTION 10. Section 71 of said chapter 151A, as so appearing, is hereby amended by striking
75 out the second paragraph and inserting in place thereof the following paragraph:- Notice of any such
76 redetermination shall be promptly given to the parties entitled to notice of the original determination, in
77 the manner prescribed in this chapter with respect to notice of an original determination. If the amount of
78 benefits would be increased upon such redetermination an appeal therefrom solely with respect to the
79 matters involved in such increase may be filed in the manner and subject to the limitations provided in
80 sections 39 to 40, inclusive. If the amount of benefits would be decreased upon such redetermination, the
81 matters involved in such decrease shall be subject to review in connection with an appeal by the claimant
82 thereon or from any determination upon a subsequent claim for benefits which may be affected in amount
83 or duration by such redetermination. Any proposed decrease or increase of the amount of benefits based
84 upon such a redetermination shall not take effect if any party seeks timely review in accordance with
85 section 39(b). Subject to the same limitations and for the same reasons, the commissioner may reconsider
86 the determination in any case in which a decision has been rendered by the board of review or a court, and
87 may apply to said board or such court which rendered such decision to revoke or modify such decision
88 and the board of review or court may affirm, modify or revoke such decision.